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## **GCA Workplace discrimination and harassment policy<sup>1</sup>**

### **Context**

This policy expresses the behaviour expected of GCA Community regarding any matter of workplace discrimination and harassment policy.

### **Rationale**

This policy is to ensure that Group Colleges Australia has in place a clear policy for workplace discrimination and harassment to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying and sexual harassment and ensure that all GCA staff and students are required to treat others with dignity, courtesy and respect.

### **Legislative Context**

- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Fair Work Act 2009 (Cth)
- Privacy Act 1988 (Cth)

### **Policy Application**

This policy applies to:

- GCA Board members;
- All staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; student placements, apprentices, contractors, sub-contractors and volunteers;
- All students currently undertaking a course at GCA;
- How GCA provides services to clients and how it interacts with other members of the public;
- All aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport;
- On-site, off-site or after hours work; work-related social functions; conferences – wherever and whenever staff may be as a result of their GCA duties; and
- Treatment of other staff, of clients, and of other members of the public encountered in the course of their GCA duties.

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<sup>1</sup> See Appendix A for a list of external documents referenced in the making of this document.

## **Rights and responsibilities**

All staff and students are entitled to:

- Recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- Work free from discrimination, bullying and sexual harassment
- The right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- Reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disability, religious beliefs or culture.

All staff and students must:

- Follow the standards of behaviour outlined in this policy
- Offer support to people who experience discrimination, bullying or sexual harassment, including providing information about how to make a complaints
- Avoid gossip and respect the confidentiality of complaint resolution procedures
- Treat everyone with dignity, courtesy and respect.

## **Additional responsibilities of managers and supervisors**

Managers and supervisors must also:

- Model appropriate standards of behaviour
- Take steps to educate and make staff and students aware of their obligations under this policy and the law
- Intervene quickly and appropriately, when they become aware of inappropriate behaviour
- Act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- Help staff and students resolve complaints informally.
- Refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation.
- Ensure staff and students who raise an issue or make a complaint are not victimised
- Ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made.
- Seriously consider requests for flexible work arrangements.

## **Unacceptable workplace conduct**

Discrimination, bullying and sexual harassment are unacceptable at GCA and are unlawful under the following legislation:

- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)

- Fair Work Act 2009 (Cth) (Fair Work Act)
- Australian Human Rights Commission Act 1986 (Cth).

Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

### **Discrimination and Harassment**

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

Harassment refers to discriminatory behaviour by a person to another person or groups of persons based on personal attributes or characteristics of the victim(s). This behaviour disadvantages the victim(s) and is intended to embarrass, intimidate, cause offence of anguish to the victim.

For this policy harassment is not restricted to sexual harassment. Under Commonwealth law cyber harassment is also considered an offence under the *Criminal Code Act 1995 (Cth)*.

Discrimination can occur:

**Directly**, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below).

*For example, a worker is harassed and humiliated because of their race  
or  
A worker is refused promotion because they are 'too old'*

**Indirectly**, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below).

*For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.*

**Protected personal characteristics under Federal discrimination law (this includes the Fair Work Act) incorporate:**

- A disability, disease or injury, including work-related injury
- Parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- Race, colour, descent, national origin, or ethnic background
- Age, whether young or old, or because of age in general
- Sex
- Gender identity
- Industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- Religion
- Pregnancy and breastfeeding

- Sexual orientation, intersex status, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- Marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- Political opinion
- Social origin
- Medical record
- An association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

It is important to understand that it is the person who subjected to the behaviour who determines whether the behaviour is welcome or unwelcome.

### **Bullying**

Bullying is characterised by recurring, unreasonable behaviour directed at a person or groups of persons that creates risks to health and safety.

Bullying constitutes unsolicited, offensive treatment through unreasonable or humiliating attempts to undermined an individual or a group. For example, students grouping together to intimidate lecturers to alter grades.

Bullying normally consists of repeated behaviour where an established pattern can be identified.

It is also important to understand that it is the person subjected to the behaviour who determines whether the behaviour is welcome or unwelcome.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- use of complaints process for vexatious complaint lodging
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- constant unconstructive criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- unreasonable refusal of requests for leave, training or other workplace benefits.

### **Sexual harassment**

Harassment of a sexual nature may occur when a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in any unwelcome conduct of a sexual nature in relation to another person.

Sexual harassment can be physical, verbal or written.

The Australian Human Rights Commission lists sexual harassment to include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- sexually explicit emails, text messages or posts on social media sites
- sexual assault
- repeated requests to go out
- requests for sex

Source Human Rights Commission website at <https://humanrights.gov.au/quick-guide/12096>

Sexual harassment has nothing to do with mutual attraction or private, consenting adult friendships whether sexual or otherwise.

### **Victimisation**

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation. Victimisation is against the law.

It is also victimisation to threaten someone (such as a witness) who may be involved in investigating an equal opportunity concern or complaint.

Victimisation is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator.

GCA has a zero tolerance approach to victimisation.

### **Gossip**

It is unacceptable for staff at GCA to talk with other staff members, clients or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

### **Merit at GCA**

All recruitment and job selection decisions at GCA will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

### **Resolving issues at GCA**

GCA strongly encourages any staff member who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action by following the procedures listed within the GCA Staff Grievance Policy and Procedures.

Staff or students who do not feel safe or confident to take such action may seek assistance from:

- Sir Gerard Newcombe: [gerard.newcombe@gca.edu.au](mailto:gerard.newcombe@gca.edu.au)
- Greg Whateley: [greg.whateley@ubss.edu.au](mailto:greg.whateley@ubss.edu.au)
- Jotsana Roopram [jotsana.roopram@ubss.edu.au](mailto:jotsana.roopram@ubss.edu.au)

For advice and support or action their behalf.

### **Employee assistance program**

GCA staff are entitled to a certain amount of free, professional counselling from our employee assistance program. To access the employee assistance program, contact:

- Sir Gerard Newcombe: [gerard.newcombe@gca.edu.au](mailto:gerard.newcombe@gca.edu.au)
- Greg Whateley: [greg.whateley@ubss.edu.au](mailto:greg.whateley@ubss.edu.au)
- Jotsana Roopram [jotsana.roopram@ubss.edu.au](mailto:jotsana.roopram@ubss.edu.au)

Employee assistance program counselling is confidential and nothing discussed with a counsellor will be communicated back to GCA. Employee assistance program counselling is available free to GCA staff regardless of whether the issue is related to a workplace problem or some other issue for the staff member.

### **Related Documents**

- GCA Critical Incident Policy
- GCA Privacy Policy
- GCA Staff Recruitment Policy and Procedure
- GCA Staff Grievance Policy and Procedure
- GCA Group of Companies Work, Health and Safety (WHS) Policies and Procedures
- TEQSA Report into Higher Education Response to Sexual Assault and Sexual Harassment
- UBSS Grievance Policy (Non Academic)
- UBSS Wellbeing and Safety Policy

**Version Control and Accountable Officers**

Policy Category	GCA		
Responsible Officer	HR Director		
Review Date	January 2024		
Approved By	EMT		
Previous Version/Date	V1		August 2020
<b>Version</b>	<b>Authored By</b>	<b>Description of Changes</b>	<b>Approved By</b>
001	AK	New template <sup>2</sup>	EMT March 2021
002	AK	Refresh	EMT Feb 2022
003	AK	New discrimination provisions added under Fair Work Act	EMT Feb 2023

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<sup>2</sup> Note the new template was approved by the EMT 4 March 2021  
Group Colleges Australia ABN 11 085 429 732

**Appendix A**

List of external documents referenced in this document.

<b>Name of Document</b>	<b>Institution Name</b>	<b>Website</b>	<b>Date Accessed</b>
Workplace Guide and Model Discrimination and Harassment Policies	NSW Law Society	<a href="https://www.lawsociety.com.au/sites/default/files/2021-05/LS3498_PAP_Workplace-guide_2021-05-13.pdf">https://www.lawsociety.com.au/sites/default/files/2021-05/LS3498_PAP_Workplace-guide_2021-05-13.pdf</a>	4 January 2023
Discrimination and Harassment Policy	University of Queensland	<a href="https://ppl.app.uq.edu.au/content/1.70.06-discrimination-and-harassment">https://ppl.app.uq.edu.au/content/1.70.06-discrimination-and-harassment</a>	4 January 2023
Anti Discrimination and Freedom from Bullying and Harassment (staff) Governing Policy	University of Sunshine Coast	<a href="https://www.usc.edu.au/about/policies-and-procedures/anti-discrimination-and-freedom-from-bullying-and-harassment-staff-governing-policy">https://www.usc.edu.au/about/policies-and-procedures/anti-discrimination-and-freedom-from-bullying-and-harassment-staff-governing-policy</a>	4 January 2023
Workplace Discrimination	Fair Work Ombudsman	<a href="https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/workplace-discrimination">https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/workplace-discrimination</a>	11 January 2023